THE SCHOOL ACT

A DISCUSSION PAPER

On February 16, 1984, David King, Minister of Education, announced that during the next twelve months the Government of Alberta will conduct a review of the **School Act** "for the purpose of establishing and maintaining a system of governance for education compatible with our values, our historic experience and our goals".

The first item placed on the agenda for the review is a discussion paper outlining what appear to be the significant issues for consideration. This document attempts to examine the most basic of educational questions: What is the most effective system of governance of education in Alberta in the 1980's? What are the rights and responsibilities of parents, pupils, teachers and administrators within such a system? What is the meaning of education within the system and what are its goals?

Appendix I describes the current provisions of the **School Act** with some corresponding reference to other statutes such as the Department of Education Act, the Alberta Act and the Constitution Act inasmuch as the **School Act** is not the only legislation to deal with the system of education in this Province.

The narrative takes the form of a brief description of the subject matter covered by legislation together with the statutory reference section and a description of issues raised with respect to the provision. The list of issues is not exhaustive. It is intended to promote discussion and debate on the current system with a view to soliciting from the educational community and the public at large recommendations which will contribute to the development of an enhanced system of education. For more detailed analysis of specific provisions, reference should be made to the applicable statutes, a list of which is contained in Appendix II to this paper. Copies of the respective legislation may be obtained from Queen's Printer, 11510 Kingsway Avenue, Edmonton, T5G 2Y5 and 620 - 7th Avenue, S.W. Calgary, T2P 0Y8.

History

When the Alberta Act was proclaimed in 1905, establishing Alberta as a province of Canada, the School Ordinance, 1901, a statute under the Northwest Territories Act, 1875, was established as the basis for the governance of education in Alberta. This Ordinance, with periodic amendments, continued in effect until 1922 when the first **School Act** was passed as Chapter 51 of the first Revised Statutes of Alberta. Also enacted were the School Assessment Act, the School Grants Act, and the School Attendance Act.

The **School Act**, 1922, continued in effect until 1931 when a new **School Act** was enacted as part of the Revised Statutes of Alberta, 1931. A completely revised Act was passed by the Legislature in 1952, incorporating provisions for school divisions, grants and attendance. The School Taxation Act and the School Attendance Act were repealed.

The **School Act**, 1952, continued in effect until revised in 1970. With subsequent amendments this Act is in effect at the present time.

Scope of Review

The task of developing a new **School Act** is complex and challenging. We are not anticipating merely making amendments to the current **School Act.** As is evident from the issues and questions raised in Appendix I, everything from the structure of governance of our school systems and the question of compulsory attendance to the rights of minority groups will be examined. The government does not, however, intend to change for "the sake of change". Rather, it is anticipated that the review will confirm for us that much of what we have is sound and should be retained.

A major element of the review will be to look at what is not addressed in the current **School Act** but perhaps should be incorporated into the legislation. For example, the current Act is a legislative instrument containing 82 pages (183 sections) of which approximately 10 pages (20 sections) deal with "schooling". The balance of the sections deal with administrative and governance matters such as the election of trustees, the presentation of petitions, the power of trustees, the financing and subdivision of school jurisdictions, disputes between teachers and boards and other administrative matters. The Act does not define "teacher", "pupil", "principal" or "school". It does, however, define "school building", "school district", "trustee", "Minister", "elector", "board" and "municipality". One of the goals of the new **School Act** is to accentuate the place, role, rights and responsibilities of pupils, parents, teachers and principals. Some consideration is being given to the creation of two Acts; one, dealing primarily with the schooling of pupils and a second, dealing with the governance and administration of school jurisdictions.

With respect to the enunciation of rights and responsibilities, we have received recommendations to include a "Charter of Student Rights" within the Act. We expect this recommendation to be controversial. Some consideration is being given to including the "goals of education" and the "goals of schooling" (as approved by the Alberta Legislature in 1978) as philosophical principles within the Act and from which the balance of rights and responsibilities would flow. These are matters worthy of discussion and debate.

Other Initiatives

The review of the **School Act** is not an isolated initiative of the Government of Alberta. Probably, at no time has Alberta Education been so busily engaged in managing, adapting to and influencing change than it is now. The general approach is one which began with departmental reorganization, continues through the implementation of the Management Finance Plan and evaluation policies, studied responses to Ministerial Task Forces, a fundamental review of secondary school programs across the Province, and will conclude with the codification of new relationships in education through a new **School Act.** Individually considered, the interrelationships among all these changes may not be readily apparent. **Taken together, however, they represent a sweeping, concerted effort to effect enduring improvement of education in Alberta.**

Proposed Purpose, Goals and Objectives - Alberta Education

It is hoped that proclamation of a new **School Act** in January 1, 1986, will mark the beginning of a new partnership in Education, one that is reflective of the goals and objectives of Albertans. In considering the issues outlined in Appendix I, it may be helpful to examine the purpose and goals that Alberta Education has prepared for itself in the coming decade.

1. Purpose

The ultimate aim of education, as approved by the Legislative Assembly of Alberta 1978, is to develop the abilities of individuals in order that they might fulfill their personal aspirations while making a positive contribution to society. While this aim of education is a shared responsibility with the community, the educational system has a unique and particular role to play in the provision of quality educational opportunities which enable individuals to develop their diverse and unique abilities. This role, the provision of quality educational opportunities, is primarily accomplished through schooling which is influenced by a variety of groups such as the Alberta School Trustees Association, The Alberta Teachers' Association, Alberta Federation of Home and School Association, Conference of Alberta School Superintendents, post-secondary institutions, school boards, and pupils, parents, and teachers.

While the provision of schooling occurs within a complex environment, the central focus is on the process of pupil learning. With this central focus and the particular role of the educational system in mind, the purpose statement for Alberta Education is:

TO MAXIMIZE THE OPPORTUNITIES FOR MEANINGFUL LEARNING, BY ENSURING THE PROVISION OF THE HIGHEST POSSIBLE QUALITY OF TEACHING, PROGRAMS AND SCHOOLS FOR PUPILS IN ALBERTA'S EDUCATIONAL SYSTEM FROM EARLY CHILDHOOD SERVICES THROUGH GRADE 12.

2. Goals

To accomplish the purpose, Alberta Education has identified the following goals.

GOAL 1: To establish equitable and maintain educational opportunities in all parts of Alberta.

GOAL 2: To ensure the development and maintenance of acceptable standards of education and to communicate these standards and their achievement to Albertans.

GOAL 3: To provide leadership in identification, assessment, and resolution of issues.

GOAL 4: To improve the effectiveness and efficiency with which Alberta Education achieves its responsibilities.

Responses

To be successful, the review of the **School Act** will need the interested involvement of the major groups active in Education as well as the interested involvement of Albertans generally. Please consider the issues raised in this paper and let us know your opinions on these and any other issues you consider relevant to the governance and purposes of education and the rights and responsibilities of those involved in the educational system.

If you wish to obtain additional copies of this document, or if you wish to obtain information, make a submission, or arrange for a presentation to a group or association, please contact the Department of Education, Legislative Services Branch, 11160 Jasper Avenue, T5K 0L2, or by phone at 422-4875. Persons outside of Edmonton who wish to phone should contact the local RITE operators and ask for 422-4875.

APPENDIX I

CURRENT PROVISION:	STATUTORY REFERENCE:	ISSUES
GOVERNANCE OF EDUCATION		
1. Constitutionally the legislative responsibility for education rests with the provincial government. General administrative responsibility for the running of schools has been delegated to locally elected school boards.	Constit. Act 1867s. 93 Alberta Act 1905	(i) What form should this delegated responsibility take? (ii) Should school jurisdictions be permitted more or less responsibility? (iii) Will more responsibility result in more differences within the provincial system or permit the development of a school system more reflective of the direct community it serves? In any event, what effect might differences or similarities have on the education of children who move?
2. Most of Alberta is divided into school jurisdictions (public and separate districts, divisions, counties, etc.) administered by locally elected boards. These boards run, operate and maintain schools within which educational programs, administered by the boards under the authority of the Minister are provided to pupils.	School Act s. 29-31	(i) Is our system of school governance better served by elected trustees or by appointed trustees or a combination of elected and appointed trustees? (ii) Given that the schools are administered directly by principals under authority of the board, should the School Act recognize the role of individual schools, school principals, and school communities in the governance and administration of education? (iii) Should the School Act require certain qualifications for trustees? (iv) Should boards be more collegial in form, comprised of parents, teachers and elected officials? Regardless of the composition of the board, should it share responsibility with other responsible groups? If so, how?
3. School jurisdictions in Alberta are established and amalgamated geographically. Currently there are approximately 150 school jurisdictions in Alberta.	School Act s. 13 s. 28	(i) Should geography be the sole criterion for establishing school districts or divisions? (ii) Should the formation of boards be based more on philosophical grounds rather than geographic? Or is there room within a geographical area for the combination of different existing frameworks?

CURRENT PROVISION:	STATUTORY REFERENCE:	ISSUES
		(iii) If some form of responsibility is delegated to the local school, should governance of districts rest with school boards representative of a far wider geographic area? (iv) Are Albertans well served by 150 distinct school jurisdictions? Should a school jurisdiction having responsibility for 100 pupils be treated identically as one having responsibility for 80,000 pupils?
4. The British North American Act Ordinances 28 and 29 of the Northwest Territories, the Alberta Act and the School Act provide for dissentiate or separate schools. In a geographic area two jurisdictions and two boards may exist. Where only one jurisdiction exists, every elector and every child is automatically a resident of that jurisdiction. Where both a public and a separate school board exists, residence is determined solely by the faith of the elector.	B.N.A. s. 93 28 & 29 Ords. of NW Territories Alberta Act School Act s. 52-58 s. 55	(i) Is the current system of establishing separate school jurisdictions appropriate? (ii) Is it appropriate to determine residence by faith? (iii) Should those who declare no religious affiliation have the freedom to choose which system they will support?
FINANCING EDUCATION		
5. For the purposes of property assessment, the religion of the owner of the property determines whether funds accrue to the public or separate board. If the owner is neither Protestant nor Roman Catholic or if his(her) religion is not known, he(she) is deemed to be a public school supporter unless he(she) actively supports the separate system.	School Act s. 59-71	(i) Should the religion of a property owner(s) be the sole criterion for determining which system should be allocated the tax assessment? (ii) Should an individual simply be able to elect where his(her) taxes should be allocated?
6. Where a Protestant is married to a Roman Catholic the assessment of the jointly owned residence is split 50/50 between the public and separate systems even if all their children attend one system.		(i) Where all the children in one family attend one system, should the law require 100% of the assessment on the family property to be to that system?

	CURRENT PROVISION:	STATUTORY REFERENCE:	ISSUES
7.	A corporation that has shareholders or members of the same religious faith (and if that faith is the faith of the separate school board) it may require a percentage of its property to be assessed for separate school purposes.	School Act s. 63, 64	(i) Should the Act reflect a presumption that all corporate assessment be based on a "pupil apportionment" method?
8.	If a corporation has not given notice under the s. 62, the Board of a separate school district may by notice require part of the property of the corporation be assessed for separate school purposes.	School Act s.68	(i) Should public school systems also have the right to circularize corporations with respect to declaring the distribution of tax assessment? (ii) Should the partition of assessment be based on a returned notice or a disregarded notice?
9.	Provincial revenue for financing basic education is provided out of the general revenues of the province and the provincial requisition on commercial and industrial property located within municipalities. A municipality may pay all or part of the requisition directly to boards in the municipality or, in the case of counties, may be retained for school purposes.	School Act s. 127-141	
10.	School boards may also requisition municipalities for amounts of money for school purposes. The Minister may limit the amount of money a board can raise from the supplementary requisition.		(i) Should government have the right to requisition or levy taxes for money for education? (ii) Should the province have exclusive access to the corporate taxation base, perhaps for the purpose of a 'pooled' distribution?
11.	School boards may be empowered to levy and collect their own taxes. It is the general practice to requisition from municipalities.		(i) Should all boards be required to levy and collect their own taxes?
12.	Under the new Management Finance Plan, in 1984-85 school boards will receive grants for special needs programs.	School Act s. 137	(i) Should school boards be permitted to utilize unexpended funds distributed for these programs to other program areas? (ii) Should school boards be required to use special needs grants solely for the programs for which the grants are provided.

	CURRENT PROVISION:	STATUTORY REFERENCE:	ISSUES
13.	Currently boards are required to prepare financial statements on a calendar year basis.	School Act s. 74	(i) Would financial processes be simplified by having the fiscal year of boards coincide with the school year?
	RIGHTS AND RESPONSIBILITIES OF INDIVIDUALS		
14.	Anywhere in Alberta, children between the ages of 6 and 16 are required by law to attend school. (A 'school' here is basically any program approved by the Minister and/or the local board and/or an educational administrator.) A limited number of excuses permit children to be legally excused from school. Without the benefit of a legal excuse, the child is considered truant.	School Act s. 142	(i) Should the School Act address the matter of compulsory education rather than compulsory attendance? (ii) Are the ages 6 to 16 appropriate with respect to school attendance? (iii) Should the School Act incorporate legislative provision with respect to ECS (Early Childhood Services)? (iv) Should parents have the responsibility to determine which school their child will attend? What limits, if any, should be placed on the exercise of this responsibility?
15.	A parent whose child is truant is liable to a fine or imprisonment or may be required to provide a bond to ensure attendance.	School Act s. 180(1)	(i) Are these appropriate remedies for non-attendance by a pupil? (ii) Should pupils over the age of 12 have some say in their attendance at school?
16.	A pupil is excused from attendance at school if an Inspector or Superintendent certifies that the pupil is under "efficient instruction" at home or elsewhere.	School Act s. 143(1)	(i) How should educational adequacy in regard to home schooling be determined? (ii) Who should make the determination?
	Pupil Placement		
17.	Pupils are required to attend the school that they are directed to attend by the board of the district or division in which his(her) parents reside.	School Act s. 144	(i) Should parents rather than boards have the right to determine where their children will attend schools? Should it be a joint responsibility? Should pupils have a right to participate in this decision?

	CURRENT PROVISION:	STATUTORY REFERENCE:	ISSUES
18.	A board has a responsibility to accept in its schools every pupil whose parents reside in its district or division or must direct the pupil to another district or division.	School Act s. 145	(i) Is this right to an education an absolute right? (ii) Should it exist irrespective of the pupil's ability to gain anything meaningful from attendance at school?
19.	Where a pupil has special educational needs, placement of the pupil in a suitable environment is dependent upon parental approval.		(i) Should a board and parent be unable to agree on suitable placement, the Act provides for no resolution of the matter. What would be an appropriate method of resolution?
20.	A board may charge tuition fees for any pupil whose parent is not a resident of the district or division.	School Act s. 152(2)	(i) Should the right to an education be a right to a 100% public funding of that education? Should this right be directed to pupils or parents or both?
	School Records		
21.	The Minister may make regulations respecting access to pupil records.	School Act s. 11(1)	(i) Given society's desire for increased freedom of information, who should have access to pupil records? Pupils? Parents? Other school jurisdictions? Post-secondary institutions? (ii) What should be contained in a pupil record? (iii) Should the requirement for access to pupil records be provided for in legislation or regulation?
	Language		
22.	A board may authorize that French be used as a language of instruction. The Canadian Charter of Rights and Freedom enunciates certain categories of parents who are entitled to have their children instructed in the French language provided the number of children of such parents warrants the provision of public funds for that purpose.	School Act s. 159 Chart of Rights & Freedoms s. 23	(i) How should the School Act address the question of minority language rights?

CURRENT PROVISION:	STATUTORY REFERENCE:	ISSUES
Schools		
23. A board has the legal authority and power to operate schools for pupils within its jurisdiction. It has a duty to provide adequate accommodation for these pupils who have a right to education.		(i) Some jurisdictions operate schools which serve the needs of a particular segment of a society such as Hutterites or other religious groups. What is the role of the public education in meeting these needs?
24. The School Act does not recognize the role of private schools, but the Department of Education Act permits the operation of private schools which are approved by the Minister.	School Act s. 1 Dept. of Ed. Act s. 10	(i) Is a 'public' education necessarily provided by a government' operated school? Can private institutions serve a public purpose? If so, under what conditions? (ii) Should private schools be publicly supported? If so, under what conditions, and to what extent?
Alternative Schooling		
25. Not all Alberta children are attending or excused from attending "approved schools." They attend "unapproved" private schools operated by individuals, societies and churches.	Dept. of Ed. Act s. 10	(i) Should parents be able to file with Alberta Education an undertaking to educate their children in accordance with standards acceptable to the Minister rather than being required to send their children to "approved schools"?
Appeals		
26. When an individual considers his(her) rights have been infringed, there are no formal appeal mechanisms outlined in the Act, although the Minister is in some circumstances empowered to settle disputes.	School Act s. 154 & s. 155(6) (for example)	(i) Should a new School Act set out a mechanism to ensure an opportunity for appeal without immediate redress to the Courts?
27. The Canadian Charter of Rights and Freedoms guarantees certain fundamental freedoms including the freedom of religion and the freedom of association.	Constit. Act s. 2	(i) Should government take legal action to prevent the operation of "unapproved" private schools? (ii) Does 'freedom of religion' guarantee a right to education in a certain religious environment?

	CURRENT PROVISION:	STATUTORY REFERENCE:	ISSUES
28.	A school board may enter into an agreement with the operator of a private school for the provision of educational services.	School Act s. 169(a)	(i) Is this a valid alternative to strictly "private schools"? (ii) Do these "alternative" schools create valid alternatives within the public systems?
	Teachers		
29.	The School Act does not address the role, rights and responsibilities of teachers except with respect to their being hired, paid, disciplined and terminated. The Act does not define "teacher" and the "teaching function".	School Act s. 80 s. 101	(i) Should the Act establish a role for teachers? (ii) Should we address the question of evaluation of performance of that role within the Act? (iii) Given that the new School Act may define rights and responsibilities of students, should we also recognize the rights and responsibilities of teachers?
30.	A board can designate a teacher to act in an administrative or supervisory role. The board and the collective bargaining agent for teachers may, by negotiation, exclude any teacher so designated from the collective bargaining unit.	School Act s. 93(4) s. 93(5)	(i) If the new School Act delegates administrative authority to administrators within schools, is it appropriate that he(she) be excluded from the collective bargaining unit?
	School Board Powers		
31.	Presently boards are required to appoint a Superintendent of Schools unless exempted by the Minister.	School Act s. 72(1)	(i) Should Superintendents be appointed by the Minister? Should boards have the option of requesting a departmentally appointed Superintendent? (ii) Should the authority and responsibility of the Superintendent be outlined in legislation or is the role of the Superintendent a matter between employer and employee?
32.	Subject to the Act, individual School Boards have the authority to establish the length of the school year, the length of the school day and the vacation period.	School Act s. 148	(i) Is it appropriate to have the variety of school years throughout the Province? Should there be more consistency? (ii) Should the school day or the school year be longer or shorter than at present?

CURRENT PROVISION:	STATUTORY REFERENCE:	ISSUES
33. School Boards have the authority to establish and maintain schools within their jurisdiction. However, they may only close a school with the approval of the Minister.	School Act s. 149	(i) Should school boards have the sole authority to close their own schools? If so, under what conditions? Should the School Act recognize alternatives to closure such as amalgamation of separate and public schools within one facility where enrolment is insufficient to support and operate two distinct schools?

APPENDIX II

I. ACTS ADMINISTERED BY THE MINISTER OF EDUCATION

Alberta School Trustees Association Act, RSA 1980, Ch. A-37.

Department of Education Act, RSA 1980, Ch. D-17.

Metis Betterment Act, RSA 1980, Ch. M-14. (Shared Responsibility)

Northland School Division Act, RSA 1980, Ch. N-10.

School Act, RSA 1980, Ch. S-3.

School Buildings Act, RSA 1980, Ch. S-4.

Teacher Retirement Fund Act, RSA 1980, Ch. T-2.

Teaching Profession Act, RSA 1980, Ch. T-3.

II. OTHER RELEVANT ALBERTA ACTS

County Act, RSA 1980, Ch. C-27.

Alberta Planning Act, RSA 1980, Ch. P-9.

III. FEDERAL LEGISLATION

Alberta Act, 4-5 Edw. VII, c.3.

Constitution Act, 1982.

POOR

QUALITY

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